

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In Re:)	CASE NO: 08-01151-dd
)	
JOHN G. CALHOUN)	CHAPTER 7
GLEND A R. CALHOUN)	
Debtors.)	
)	

DEBTORS' MOTION FOR RECONSIDERATION AND FOR RELIEF FROM ORDER
AND REQUEST TO BE HEARD

The debtors, by counsel, hereby move this Court pursuant to FRBP 9024, making applicable FRCP 60, to reconsider and grant relief from the Order entered November 12, 2008. The debtors request this Court to reconsider the following issues:

1. Whether the means test replaces the ability to pay analysis.
2. Whether the ability to pay, standing alone, is sufficient to require dismissal of a Chapter 7 case for substantial abuse.
3. Whether Social Security income is to be included when determining disposable income and ability to pay.
4. Whether the debtors have the ability to pay unsecured creditors.

The debtors believe that FRCP 60(b)(6) provides a basis for the relief requested. The debtors also believe that newly discovered evidence provides a basis pursuant to FRCP 60(b)(2) to reconsider the Order. The newly discovered evidence relates to an increase in debtors' power bill due to a rate increase and an increase in health insurance premiums beginning April 1, 2009. The budget billing agreement for the debtors will increase to \$343.00 per month. The health insurance will increase to \$442.00 per month.

The debtors request to be heard on the issues raised in this and debtors' other motions, which are incorporated by this reference. The amended findings of fact or additional findings of fact requested by debtors may alter the analysis of these issues.

Respectfully submitted.

/s/ Joseph E. Mitchell, III
Joseph E. Mitchell, III
District Court ID No. 6115
Attorney for the Debtors

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED UPON THE
FOLLOWING A COPY OF THE WITHIN AND FOREGOING DEBTORS' MOTION TO
RECONSIDER AND REQUEST TO BE HEARD VIA ELECTRONIC TRANSMISSION.

Joseph F. Buzhardt, III, Esquire
United States Trustee

Robert F. Anderson, Esquire
Chapter 7 Trustee

Date: 11/20/08

/s/ Joseph E. Mitchell, III
Joseph E. Mitchell, III
District Court ID No. 6115
Attorney for the Debtors

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